

APPEAL NO. 040486
FILED APRIL 9, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 3, 2004. The hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the first quarter.

The claimant's appeal states that he disagrees with the hearing officer's decision and we will treat that as an appeal on the sufficiency of the evidence. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The SIBs criterion in issue in this case is whether the claimant made a good faith effort to obtain employment commensurate with his ability to work during the first quarter qualifying period. The direct result criterion was decided in the claimant's favor and has not been appealed.

The claimant asserts entitlement to SIBs on the basis that he is a full time student. Rule 130.102(d)(2) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been enrolled in and satisfactorily participated in, a full-time vocational rehabilitation program sponsored by the Texas Rehabilitation Commission (TRC) during the qualifying period.

The parties in essence agreed that the qualifying period for the first quarter was from July 26 through October 24, 2003. The claimant had sustained a severe right leg, knee, and ankle injury and it undisputed that he cannot return to his preinjury work. In December 2002, the claimant on his own initiative enrolled in a full-time program to become an ultrasound technician. The claimant's schooling was paid for by various student loans and grants. The claimant has continued to pursue this course of education. There was apparently a change in the impairment rating which changed the beginning of the SIBs qualifying period. At any rate, the claimant contacted the TRC for assistance on September 15, 2003. The claimant testified that he was told that TRC would not pay for courses which the claimant had already paid for through the loans and grants. In evidence is a form letter stating that the claimant contacted TRC "for services on 9/15/03. He is participating in our program at this time." See Texas Workers' Compensation Commission Appeal No. 031767-s, decided August 22, 2003, where the Appeals Panel determined that TRC funding is not necessarily required to satisfy the requirements of Rule 130.102(d)(2).

The hearing officer determined that the claimant “did not participate in any full time rehabilitation program sponsored by the TRC” and that the claimant was not entitled to SIBs for the first quarter. Those determinations are supported by the evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, we affirm the hearing officer’s decision and order.

The true corporate name of the insurance carrier is **TRAVELERS INDEMNITY COMPANY OF CONNECTICUT** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Gary L. Kilgore
Appeals Judge